

R. James Archibald, Esq.
Attorney at Law
Idaho State Bar No. 4445
1493 North 1070 East
Shelley, Idaho 83274
Telephone (208) 317-2908
Email: jimarchibald21@gmail.com

John Thomas, Esq.
Attorney at Law
Idaho State Bar No. 6727
166 Martinsburg Lane
Idaho Falls, Idaho 83404
Telephone: (208) 313-7481
Email: jthomas@co.bonneville.id.us

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR FREMONT COUNTY

<p>STATE OF IDAHO, Plaintiff, vs. LORI VALLOW DAYBELL, Defendant.</p>	<p>Case No. CR22-21-1624</p> <p>MOTION TO DISMISS FOR LACK OF SPEEDY TRIAL</p>
---	--

Comes now the Defendant, through her attorneys, and pursuant to the Constitution of the United States, Amendment 6, the Constitution of the State of Idaho, Article I, Section 13, and Idaho Code 19-3501, moves the Court to dismiss this case as the government has violated her right to a speedy trial, as follows:

1. The accused shall enjoy the right to a speedy trial. Constitution of the United States, Amendment 6.
2. The accused shall have the right to a speedy trial. Constitution of the State of Idaho, Article I, Section 13.
3. Since the term “speedy trial” does not specify the length of time required to bring an accused to trial, federal law enacted a timeline for someone charged with a federal crime, and each state in the union enacted laws to define what it means in their respective state.
4. The Idaho legislature defined speedy trial in Idaho Code 19-3501, as follows:

The court, unless good cause to the contrary is shown, must order the prosecution or indictment to be dismissed, in the following cases: ...

(3) If a defendant, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the defendant was arraigned before the court in which the indictment is found.

5. In State v. Clark, 135 Idaho 255 (2000) the Idaho Supreme Court took up the speedy trial issue and the determination of good cause:

Upon careful consideration of the relevant authorities, we believe that a thorough analysis of the reasons for the delay represent the soundest method for determining what constitutes good cause. We therefore conclude that good cause means that there is a substantial reason that rises to the level of a legal excuse for the delay. Because there is not a fixed rule for determining good cause for the delay of a trial, the matter is initially left to the discretion of the trial court.

The good cause determination may take into account the factors listed in Barker v. Wingo, 407 U.S. 514 (1972). The Barker factors, however, considered only as surrounding circumstances are important, if at all, only insofar as they bear on the sufficiency of the reason itself. The shortness of the period, the failure of the defendant to demand a speedy trial, and the absence of prejudice are legitimate considerations only insofar as they affect the strength of the reason for delay. This means that, to whatever extent the delay has been a short one, or the defendant has not demanded a speedy trial, or is not prejudiced, a weaker reason will constitute good cause. On the other hand, if the delay has been a long one, or if the defendant has demanded a speedy trial, or is prejudiced, a stronger reason is necessary to constitute good cause.

Thus, the ultimate question of whether legal excuse has been shown is a matter for judicial determination upon the facts and circumstances of each case. A trial judge does not have unbridled discretion to find good cause, however, and on appeal we will independently review the lower court's decision. (Citations omitted.)

6. Following is the timeline in the cases against Lori Vallow Daybell:

February 20, 2020: Arrested in Hawaii on \$5,000,000 bond
Madison County CR33-20-302
Fremont County CR22-20-838

May 25, 2021: Indictment from Grand Jury
Fremont County CR22-21-1624
Previous two cases dismissed, no bond

April 19, 2022: Arraignment on Indictment

October 11, 2022: First trial setting on Indictment
Government requested more time

January 9, 2023: Second trial setting on Indictment

April 3, 2023: Third trial setting on Indictment

1,169 days in jail without a trial on any of three cases

7. The first trial setting in this instant case was for October 11, 2022, since that was within six months of April 19, 2022. The government then asked for more time and the Court granted the request and set trial for January 9, 2023. This violated her right to a speedy trial.
8. Lori Vallow Daybell's defense team questioned her competence to stand trial and the Court tolled the case from October 6, 2022, to November 15, 2022. A 40-day delay caused by the competency review still doesn't justify a trial setting three years after her arrest and almost one year after her arraignment. The government still has an obligation to bring her to a speedy trial which complies with the Constitutions and the Idaho Code.

9. From her arrest on February 20, 2020, until the current trial setting on April 3, 2023, is 1,169 days without a trial in any of the three cases. From her arraignment in this case on April 19, 2022, until the current trial setting on April 3, 2023, is 349 days, obviously more than the statutory six-month time limit. Her constitutional rights, including her right to be presumed innocent and her right to a speedy trial, have been ignored by the government.
10. It is undisputed that Lori Vallow Daybell has demanded her speedy trial and has never waived her constitutional rights. She is prejudiced every day since she's in jail and unable to post a bond. The Court has repeatedly reminded the government that it will respect her constitutional right to a speedy trial.
11. The government cannot show "good cause" to bring Lori Vallow Daybell to trial over three years from her arrest and almost one year from her arraignment. This Court should find that the government has not met its burden to uphold her constitutional rights. This case should be dismissed.

Dated: January 26, 2023

/s/ Jim Archibald
R. James Archibald, Esq.

Dated: January 26, 2023

/s/ John Thomas
John Thomas, Esq.

Certificate of Service

I hereby certify that on this day I served a true and correct copy of this document on the following by the method of delivery indicated:

Lindsey Blake, Esq. efile and serve

Robert H. Wood, Esq. efile and serve

Dated: January 26, 2023

/s/ Jim Archibald
R. James Archibald, Esq.